

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
MIDLAND/ODESSA DIVISION**

VIRTAMOVE, CORP,

Plaintiff,

v.

AMAZON.COM, INC.,
AMAZON.COM SERVICES LLC, and
AMAZON WEB SERVICES, INC.,

Defendants.

Civil Action No. 7:24-cv-30-ADA-DTG

**RESPONSE OF DEFENDANT AMAZON WEB SERVICES, INC.
TO PLAINTIFF'S THIRD NOTICE OF SUPPLEMENTAL AUTHORITY**

VirtaMove has submitted a third notice of supplemental authority attempting to bolster its objections to Judge Gilliland's transfer order. (Dkt. 106.) But the new case VirtaMove cites in the notice contradicts VirtaMove's objections. And the new facts VirtaMove raises in the notice were never presented to Judge Gilliland, so they cannot show any clear error in his transfer order.

The new case is *In re SAP Am., Inc.*, 133 F.4th 1370 (Fed. Cir. Apr. 10, 2025). VirtaMove makes two arguments about *SAP*, both of which are meritless. (Dkt. 106 at 1.) First, VirtaMove argues that the Federal Circuit applied the same legal standard in *SAP* that Judge Gilliland applied in his transfer order when weighing the witness-convenience factor. (*Id.*) VirtaMove contends that, in doing so, the Federal Circuit somehow contravened Fifth Circuit precedent. (*Id.*) But the Federal Circuit *agreeing* with Judge Gilliland does not show any clear error in his transfer order. Further, VirtaMove's interpretation of Fifth Circuit precedent is wrong. (Dkt. 92 at 6-7.) Judge Gilliland's analysis was correct under both Federal Circuit and Fifth Circuit precedent. (*Id.*)

Second, VirtaMove challenges *SAP*'s analysis of the court-congestion factor, arguing that this analysis contradicted the Fifth Circuit's *Tik Tok* decision. (Dkt. 106 at 1-2.) VirtaMove is incorrect. The Federal Circuit expressly cited and followed *Tik Tok* when addressing this factor. *SAP*, 133 F.4th at 1375.

Apart from *SAP*, VirtaMove's notice also raises new facts concerning alleged court congestion in Northern District of California. (Dkt. 106 at 2.) Specifically, VirtaMove relies on a single email its counsel received from a court clerk in NDCA requesting patience while the court was "in the process of reassigning over 150 cases to Judge Wise" (who joined the court in December 2024). (*Id.*) Because this email in NDCA came *after* Judge Gilliland's transfer order here, the email cannot show any clear error in Judge Gilliland's order.

Further, VirtaMove provides no evidence that any temporary congestion arising from the reassignment of cases to Judge Wise is ongoing. To the contrary, VirtaMove admits that Judge Wise has now acted on VirtaMove's request to her by closing VirtaMove's NDCA case on May

1. (*Id.*) For this additional reason, VirtaMove's congestion argument fails.

May 15, 2025

Respectfully submitted,

Of Counsel:

By: /s/ Jeremy A. Anapol

Harper Estes
Texas Bar No. 00000083
hestes@lcalawfirm.com
LYNCH, CHAPPELL & ALSUP
A Professional Corporation
Suite 700
300 N. Marienfeld,
Midland, Texas 79701
Telephone: 432-683-3351
Telecopier: 432-683-2587

Joseph R. Re (*Pro Hac Vice*)
Jeremy A. Anapol (*Pro Hac Vice*)
KNOBBE MARTENS OLSON & BEAR LLP
2040 Main Street, 14th Floor
Irvine, CA 92614
Telephone: 949-760-0404
Facsimile: 949-760-9502
joe.re@knobbe.com
jeremy.anapol@knobbe.com

Colin B. Heideman (*Pro Hac Vice*)
Christie R.W. Matthaei (*Pro Hac Vice*)
Logan P. Young (*Pro Hac Vice*)
KNOBBE MARTENS OLSON & BEAR LLP
925 4th Ave, Ste 2500
Seattle, WA 98104
Telephone: 206-405-2000
Facsimile: 206-405-2001
colin.heideman@knobbe.com
christie.matthaei@knobbe.com
logan.young@knobbe.com

Counsel for Defendant
Amazon Web Services, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on May 15, 2025, all counsel of record who are deemed to have consented to electronic service were served with a copy of the foregoing via the Court's CM/ECF System.

/s/ Jeremy A. Anapol
Jeremy A. Anapol